

ASSEMBLY BILL

No. 2239

Introduced by Assembly Member Hagman

February 18, 2010

An act to amend Section 5058 of the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2239, as introduced, Hagman. Department of Corrections and Rehabilitation: administration: rulemaking procedures.

Existing law authorizes the Director of the Department of Corrections and Rehabilitation to prescribe rules and adopt regulations for the administration of the prisons and administration of paroles pursuant to the Administrative Procedure Act, as specified, but exempts from that requirement regulations relating to pilot programs or to imminent danger, as specified.

This bill would also exempt from that requirement rules that relate to the procedures, training of staff, staffing levels, design and layout of an execution chamber, or related processes for the administration of the death penalty, as specified. The bill would provide that its provisions shall not be deemed to alter or otherwise apply to habeas corpus or appellate procedures in capital cases.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5058 of the Penal Code is amended to
2 read:

1 5058. (a) The director may prescribe and amend rules and
2 regulations for the administration of the prisons and for the
3 administration of the parole of persons sentenced under Section
4 1170 except those persons who meet the criteria set forth in Section
5 2962. The rules and regulations shall be promulgated and filed
6 pursuant to Chapter 3.5 (commencing with Section 11340) of Part
7 1 of Division 3 of Title 2 of the Government Code, except as
8 otherwise provided in this section and Sections 5058.1 to 5058.3,
9 inclusive. All rules and regulations shall, to the extent practical,
10 be stated in language that is easily understood by the general public.

11 For any rule or regulation filed as regular rulemaking as defined
12 in paragraph (5) of subdivision (a) of Section 1 of Title 1 of the
13 California Code of Regulations, copies of the rule or regulation
14 shall be posted in conspicuous places throughout each institution
15 and shall be mailed to all persons or organizations who request
16 them no less than 20 days prior to its effective date.

17 (b) The director shall maintain, publish and make available to
18 the general public, a compendium of the rules and regulations
19 promulgated by the director pursuant to this section and Sections
20 5058.1 to 5058.3, inclusive.

21 (c) The following are deemed not to be “regulations” as defined
22 in Section 11342.600 of the Government Code:

23 (1) Rules issued by the director applying solely to a particular
24 prison or other correctional facility, provided that the following
25 conditions are met:

26 (A) All rules that apply to prisons or other correctional facilities
27 throughout the state are adopted by the director pursuant to Chapter
28 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
29 Title 2 of the Government Code.

30 (B) All rules except those that are excluded from disclosure to
31 the public pursuant to subdivision (f) of Section 6254 of the
32 Government Code are made available to all inmates confined in
33 the particular prison or other correctional facility to which the rules
34 apply and to all members of the general public.

35 (2) Short-term criteria for the placement of inmates in a new
36 prison or other correctional facility, or subunit thereof, during its
37 first six months of operation, or in a prison or other correctional
38 facility, or subunit thereof, planned for closing during its last six
39 months of operation, provided that the criteria are made available
40 to the public and that an estimate of fiscal impact is completed

1 pursuant to Sections 6650 to 6670, inclusive, of the State
2 Administrative Manual.

3 (3) Rules issued by the director that are excluded from disclosure
4 to the public pursuant to subdivision (f) of Section 6254 of the
5 Government Code.

6 (4) (A) *Rules that relate to the procedures, training of staff,*
7 *staffing levels, design and layout of an execution chamber, or*
8 *related processes for the administration of the death penalty*
9 *pursuant to Chapter 1 (commencing with Section 3600) of Title 3.*

10 (B) *This paragraph shall not be deemed to alter or otherwise*
11 *apply to habeas corpus or appellate procedures in capital cases.*